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of the State of California
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6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 HAWAII PHARMACY; SABINA RASULOV
12127 Carson St
Hawaiian Gdns, CA 90716-1154
Pharmacy Permit No. PHY 46650,

14 SABINA RASULOV
15 12127 Carson Street
Hawaiian Gardens
16 Pharmacy Technician Registration No. TCH
43095,

17
18 Respondents.
19

Case No. 3115

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

20 **FINDINGS OF FACT**

- 21 1. On or about June 27, 2008, Complainant Virginia K. Herold, in her
22 official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 3115
23 against Hawaii Pharmacy and Sabina Rasulov (Respondents) before the Board of Pharmacy.
- 24 2. On or about February 13, 2004, the Board of Pharmacy (Board) issued
25 Pharmacy Permit No. PHY 46650 to Respondents Hawaii Pharmacy and Sabina Rasulov. The
26 Pharmacy Permit expired on February 1, 2006, and has not been renewed.
- 27 3. On or about October 24, 2002, the Board issued Pharmacy Technician
28 Registration No. TCH 43095 to Sabina Rasulov. The Pharmacy Technician Registration was in

1 full force and effect at all times relevant to the charges brought herein and will expire on January
2 31, 2010, unless renewed.

3 4. On or about July 7, 2008, Maria L. Camacho, an employee of the
4 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
5 3115, Statement to Respondent, Notice of Defense (2 Copies), Request for Discovery and
6 Government Code Section 11507.5, 11507.6, 11507.7 Provided Pursuant to Government Code
7 Section 11504 and 11505 to Respondents addresses of record with the Board, which was and is:
8 Advance Choices, Hawaii Pharmacy, 12127 E. Carson St, Hawaiian Gardens, California
9 90716-1154 and Sabina Rasulov 11684 Ventura Blvd. #775, Studio City, California 91604. A
10 copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

11 5. Service of the Accusation was effective as a matter of law under the
12 provisions of Government Code section 11505, subdivision (c).

13 6. On or about July 11, 2008, the aforementioned documents were returned
14 by the U.S. Postal Service marked "No Forwarding Address."

15 7. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the
17 respondent files a notice of defense, and the notice shall be deemed a specific
18 denial of all parts of the accusation not expressly admitted. Failure to file a notice
19 of defense shall constitute a waiver of respondent's right to a hearing, but the
20 agency in its discretion may nevertheless grant a hearing.

21 8. Respondents failed to file a Notice of Defense within 15 days after service
22 of the Accusation, and therefore waived their rights to a hearing on the merits of Accusation No.
23 3115.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at
26 the hearing, the agency may take action based upon the respondent's express
27 admissions or upon other evidence and affidavits may be used as evidence without
28 any notice to respondent.

29 10. Pursuant to its authority under Government Code section 11520, the
30 Board of Pharmacy finds Respondent is in default. The Board of Pharmacy will take action
31 without further hearing and, based on the evidence on file herein, finds that the allegations in

1 Accusation No. 3115 are true.

2 11. The total cost for investigation and enforcement in connection with the
3 Accusation are \$3,500 as of October 6, 2008.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Hawaii Pharmacy;
6 Sabina Rasulov has subjected her Pharmacy Permit No. PHY 46650 to discipline. Additionally,
7 Respondent Sabina Rasulov has subjected her Pharmacy Technician Registration No. TCH
8 43095 to discipline.

9 2. A copy of the Accusation is attached.

10 3. The agency has jurisdiction to adjudicate this case by default.

11 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy
12 Permit based upon the following violations alleged in the Accusation:

13 a. Respondent Rasulov is subject to disciplinary action under sections
14 490 and 4301, subdivision (l) of the Code, as defined in California Code of Regulations, title 16,
15 section 1770, in that Respondent Rasulov was convicted of a crime substantially related to the
16 qualifications, functions or duties of a licensed pharmacy technician on or about April 3, 1997,
17 where she was convicted for violating one count of Welfare and Institutions Code section
18 10980(c)(2), a felony, (welfare fraud), in the Los Angeles Superior Court, County of Los
19 Angeles, State of California, Central Judicial District, Case No. BA135829 entitled The People
20 of the State of California v. Sabina Rasulov Blum.

21 b. Respondents are further subject to disciplinary action under
22 sections 4300 and 4301, subdivisions (f) and (o), on the grounds of unprofessional conduct, in
23 that Respondents committed acts of moral turpitude, dishonesty, fraud or deceit, in that
24 Respondents billed Medi-Cal for services using the previous owners Medi-Cal provider number
25 from February 2, 2004 through April 1, 2005.

26 c. Respondents are further subject to disciplinary action under
27 sections 4300 and 4301, subdivisions (g) and (o), on the grounds of unprofessional conduct, for
28 violating section 810, subdivisions (a) (1) and (a) (2), in that Respondents Hawaii Pharmacy,

1 Rusalov and Schecter knowingly made or signed a certificate or other documents and submitted
2 false and fraudulent claims for allowance of payment, under the Medi-Cal Act.

3 d. Respondents are subject to disciplinary action under section 4113,
4 subdivision (c) and California Code of Regulations section 1709.1, in the between January 9,
5 2005 and February 1, 2006, for failing to designate a Pharmacist-In-Charge of Hawaii Pharmacy.

6 ORDER

7 IT IS SO ORDERED that Pharmacy Permit No. PHY 46650, heretofore issued to
8 Respondent Hawaii Pharmacy; Sabina Rasulov; is revoked;

9 IT IS FURTHER ORDERED that Pharmacy Technician Registration No. TCH
10 43095 issued to Sabina Rasulov is revoked.


11 Pursuant to Government Code section 11520, subdivision (c), Respondents may
12 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
13 within seven (7) days after service of the Decision on Respondents. The agency in its discretion
14 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
15 statute.

16 This Decision shall become effective on January 22, 2009.

17 It is so ORDERED December 23, 2008

18
19 BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS
21 STATE OF CALIFORNIA

22 By


KENNETH H. SCHELL
Board President

23 60330832.wpd

24 DOJ docket number:LA2007601555

25 Attachment:

26 Exhibit A: Accusation No.3115
27
28

Exhibit A

Accusation No. 3115

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3115

11 ADVANCED CHOICES, INC.
d.b.a, HAWAII PHARMACY
12 12127 E. Carson St
Hawaiian Gardens, CA 90716-1154
13 SABINA RASULOV, President

A C C U S A T I O N

14 Pharmacy Permit No. PHY 46650

15 SABINA RASULOV
11684 Ventura Blvd. #775
16 Studio City, CA 91604

17 Pharmacy Technician Registration
No. TCH 43095

18 Respondents.
19

20 Complainant alleges:

21 PARTIES

22 1. Virginia Herold (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
24 Affairs.

25 2. On or about February 13, 2004, the Board issued Pharmacy Permit No.
26 PHY 46650 to Advanced Choices, Inc., to do business as Hawaii Pharmacy, with Sabina Rasulov
27 as President (Respondent Hawaii Pharmacy). The Pharmacy Permit expired on February 1,
28 2006, and has not been renewed.

3. On or about October 24, 2002, the Board issued Pharmacy Technician Registration No. TCH 43095 to Sabina Rasulov (Respondent Rasulov). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and expired on January 31, 2008.

JURISDICTION

4. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 118, subdivision (b) states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

6. Section 41-13, subdivision (c) states:

Every pharmacy shall notify the board within 30 days of the date when a pharmacist ceases to be a pharmacist-in-charge.

7. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

8. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

"(f) The commission of any act involving moral turpitude, dishonesty, fraud,

1 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
2 otherwise, and whether the act is a felony or misdemeanor or not.

3 "(g) Knowingly making or signing any certificate or other document that falsely
4 represents the existence or nonexistence of a state of facts.

5
6 "(l) The conviction of a crime substantially related to the qualifications, functions,
7 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
9 substances or of a violation of the statutes of this state regulating controlled substances or
10 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
11 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
12 The board may inquire into the circumstances surrounding the commission of the crime, in order
13 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
14 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
15 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
16 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
17 meaning of this provision. The board may take action when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under Section
20 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
21 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
22 or indictment.

23 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
25 applicable federal and state laws and regulations governing pharmacy, including regulations
26 established by the board or by any other state or federal regulatory agency."

27 9. Section 490 of the Code states:

28 "A board may suspend or revoke a license on the ground that the licensee has

1 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
2 duties of the business or profession for which the license was issued. A conviction within the
3 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
4 contendere. Any action which a board is permitted to take following the establishment of a
5 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
6 been affirmed on appeal, or when an order granting probation is made suspending the imposition
7 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
8 Penal Code."

9 10. Section 810 of the Code states:

10 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
11 including suspension or revocation of a license or certificate, for a health care professional to do
12 any of the following in connection with his or her professional activities:

13 (1) Knowingly present or cause to be presented any false or fraudulent claim for
14 the payment of a loss under a contract of insurance.

15 (2) Knowingly prepare, make, or subscribe any writing, with intent to present or
16 use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

17 11. California Code of Regulations, title 16, section 1709.1, states in pertinent
18 part:

19 (a) The pharmacist-in-charge of a pharmacy shall be employed at that location and
20 shall have responsibility for the daily operation of the pharmacy.

21 (b) The pharmacy owner shall vest the pharmacist-in-charge with adequate
22 authority to assure compliance with the laws governing the operation of a pharmacy.

23
24 12. California Code of Regulations, title 16, section 1770, states:

25 "For the purpose of denial, suspension, or revocation of a personal or facility
26 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
27 Code, a crime or act shall be considered substantially related to the qualifications, functions or
28 duties of a licensee or registrant if to a substantial degree it evidences present or potential

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1 Pharmacist-In-Charge of Hawaii Pharmacy.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein
4 alleged, and that following the hearing, the Board issue a decision:

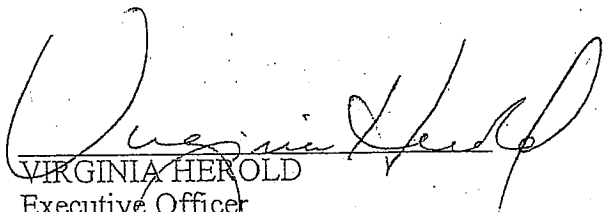
5 1. Revoking or suspending Pharmacy Permit No. PHY 46650, issued to
6 Advanced Choices, Inc., to do business as Hawaii Pharmacy, with Sabina Rasulov as President;

7 2. Revoking or suspending Pharmacy Technician Registration No.
8 TCH 43095, issued to Sabina Rasulov;

9 3. Ordering Sabina Rasulov and Advanced Choices, Inc. to pay the Board the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;

12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 6/27/08

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17 
18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 State of California
22 Complainant
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